

**IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL**

First Appeal From Order No. 283 of 2004
(Old No.608 of 1991)

1. General Manger
M/s Indian Drugs & Pharmaceuticals Ltd.
Virbhadra (Rishikesh)
 2. Chairman & Managing Director
M/s Indian Drugs & Pharmaceuticals Ltd.
Corporate Office
Gurgaon Haryana
- Appellants

Vs

Sri Bhim Bahadur S/o Sri Jang Bahadur
Quarter No. 2160A
IDPL Colony Virbhadra Rishikesh
District Dehradun

.....Respondent

Sri V.K. Bisht, learned Senior Advocate assisted by Sri B.S. Thind,
learned counsel for the appellants
Sri D.C.S. Rawat holding brief of Sri Rajendra Dobhal, learned counsel
for the respondent

Hon'ble B.C. Kandpal, J.

This Appeal has been preferred by the appellants against the Judgment and order dated 23.05.1991 passed by Commissioner for Workman Compensation & Regional Deputy Labour Commissioner, Dehradun in Case NO. W.C.A. 1 of 1989 whereby the Commissioner for Workman Compensation awarded compensation of an amount of Rs. 30,191/- to the respondent.

2. Brief facts of the case are that the respondent – Bhim Bahadur was working as a helper in the engineering Department of M/s Indian Drugs & Pharmaceuticals Ltd. (IDPL). The work assigned to the respondent was to load and unload the trolleys. On 07.08.1985, the respondent sat on the loaded trolley with cast iron and plates of filter press for his own personal convenience. All of a sudden small stone came under the trolley wheel due to which the trolley received a jerk and the respondent fell down from its, resulting fracture on his right arm. Due to this accident, the respondent was admitted

in the hospital from 07.08.1985 to 31.08.1985. Thereafter, he resumed his duties on 01.09.1985 after being declared by the Medical Officer. The claimant/respondent moved his petition., before the Workmen Compensation Commissioner for compensation.

3. Learned Workman Compensation Commissioner after having heard the learned counsel for the parties and perusing the entire material available on record awarded Rs. 30,191.00 to the claimant/respondent vide order dated 23.05.1991.

4. Feeling aggrieved by the aforesaid order, the appellants – IDPL preferred this appeal before the Allahabad High Court which has been transferred to this Court after creation of new State.

5. Heard Sri V.K. Bisht, learned Senior Advocate assisted by Sri B.S. Thind, learned counsel for the appellants, Sri D.C.S. Rawat holding brief of Sri Rajendra Dobhal, learned counsel for the respondent and perused the record.

6. Learned counsel for the appellant first of all argued before the Court that the Company (IDPL) for securing the safety of the workmen, directed the Supervisor and Officer to strictly follow the safety rules at the time of loading and unloading of materials. The employees were instructed not to sit on the loaded trolley while it was in movement or was static, but on the date of accident the respondent/claimant did not follow that instruction. He deliberately sat on the loaded trolley on his own while it was in movement.

7. It has further been submitted by the learned counsel for the appellant that the accident of this case occurred on account of the negligence on the part of the

respondent/claimant and not due to fault on the part of the employer. It has been submitted that had the workman been the diligent, he could have avoided the accident. It has also contended by the learned counsel for the appellants that the medical facility was provided to the workman, therefore, he is not entitled to get any compensation in this regard. It has further been submitted that the workman after resuming his duty has no complication on physical side and his due promotion was also given to him and he is also getting the annual increment due to him, therefore, it is not a fit case for award of compensation in favour of the workman/respondent.

8. On the other hand, learned counsel for the respondent has submitted that there is no negligence on the part of the workman. He has also submitted that the evidence on record clearly reveals that the employer is liable to pay the compensation to the workman/respondent.

9. After having considered the arguments advance by the learned counsel for the parties, I do not find any force in the argument advanced by the learned counsel for the appellant. I also do no find any infirmity, impropriety in the impugned order passed by the Workmen Compensation Commissioner. I am also of the view that the Workmen Compensation Commissioner has rightly awarded the amount of compensation Rs. 30,191/-.

10. In view of the above, the appeal lacks merit and is liable to be dismissed.

11. Accordingly, the appeal is dismissed.

(B.C. Kandpal, J.)